

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

JIMMEY LEE LAMBERT,

Petitioner,

v.

CIVIL ACTION NO. 2:21-cv-00260

DONALD AMES,

Respondent.

MEMORANDUM OPINION AND ORDER

On April 21, 2021, the Petitioner, proceeding *pro se*, filed his *Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241* (Document 1). Pending in the matter is *Defendants' Motion to Dismiss Petition for Habeas Corpus* (Document 12) filed on March 1, 2022.

By *Standing Order* (Document 5) entered on April 23, 2021, the matter was referred to the Honorable Dwane L. Tinsley, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636. On February 19, 2023, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 19) wherein it is recommended that this Court grant *Defendants' Motion to Dismiss Petition for Habeas Corpus* (Document 12) and dismiss the *Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241* (Document 1) without prejudice. Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by February 27, 2023.

Neither party has timely filed objections to the Magistrate Judge's *Proposed Findings and Recommendation*. The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and the Petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984).

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation*, and **ORDERS** that the *Defendants' Motion to Dismiss Petition for Habeas Corpus* (Document 12) be **GRANTED** and that the *Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241* (Document 1) be **DISMISSED without prejudice**. The Court further **ORDERS** that this matter be **REMOVED** from the Court's docket.

The Court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge Tinsley, counsel of record, and any unrepresented party.

ENTER: March 1, 2023



IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA